



***MINUTES OF THE ONE-HUNDRED-AND-EIGHTY-THIRD
MEETING OF THE MERIT BOARD – February 8, 2012***

***State Universities Civil Service System Office
1717 Philo Road, Suite 24
Urbana, Illinois 61802
&
(Video Conference)
University of Illinois at Chicago
College of Pharmacy
Room 270
833 South Wood Street
Chicago, Illinois
&
(Video Conference)
Southern Illinois University Carbondale
Morris Library
Conference Room, 1st Floor
605 Agricultural Drive
Carbondale, IL***

Vice Chair Montgomery called the meeting to order at 10:07 a.m.

Members present at the primary meeting location were: Karen Hasara, representing the University of Illinois; Robert T. Marshall, Jr., representing Northern Illinois University; and Robert D. Webb, representing Eastern Illinois University.

Members present at the Chicago videoconference location were: Vice Chair James D. Montgomery, representing the University of Illinois; Lyneir Cole, representing Western Illinois University; Bruce Friefeld, representing Governors State University; Marvin Garcia, representing Northeastern Illinois University; and Judge Patricia Brown Holmes, representing the University of Illinois.

Members absent were: Joanne E. Maitland, Chair, representing Illinois State University and Donna Manering, representing Southern Illinois University.

Also present were: Lewis T. (Tom) Morelock, Executive Director; Abby K. Daniels, Legal Counsel and Legal Services Manager; and Julie Benedict, Chair of the State Universities Civil Service Advisory Committee. Various other university employees and University System Office staff were also in attendance.

Consideration of participation by other Merit Board Members, not physically present at meeting site

No members had requested to participation by teleconference.

Merit Board Reorganization

The Board conducted reorganization activities, electing its officers for calendar year 2012. Judge Holmes moved that all current officers be re-elected. Mr. Friefeld seconded Judge Holmes' motion. Mr. Morelock informed the Board that the two Executive Committee Members were vacant. Mr. Montgomery asked Judge Holmes to amend her motion to include only the Chair and the Vice Chair. Both Judge Holmes and Mr. Friefeld agreed to the change. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

Judge Holmes nominated Mr. Cole and Ms. Hasara to the Executive Committee. Mr. Friefeld seconded Judge Holmes' motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

The following officers for calendar year 2012 are:

- *Chair: Joanne Maitland*
- *Vice Chair: James Montgomery*
- *Executive Committee: Lyneir Cole and Karen Hasara*

Mr. Friefeld moved to reappoint Teresa Rademacher as Secretary for the Merit Board. Judge Holmes seconded Mr. Friefeld's motion. The motion carried and Ms. Rademacher was appointed by acclamation in accordance with the Merit Board Bylaws.

Public Comments

The University System Office had received no requests to present public comments.

Consideration of the Minutes of the 182nd Meeting of the Merit Board, November 16, 2011

The minutes of the 182nd meeting of the Merit Board, November 16, 2011 had been transmitted to members of the Merit Board with the agenda materials.

Mr. Garcia moved to approve the minutes of the 182nd meeting of the University Civil Service Merit Board. Judge Holmes seconded Mr. Garcia's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

Consideration of Discharge Proceeding Number CSU-11-6 filed against Akilah Marshall by Chicago State University

On January 30, 2012, the Secretary for the Merit Board mailed the Hearing Record for the Akilah Marshall (CSU-11-6) discharge case to each member of the Merit Board. On February 3, 2012, the Secretary for the Merit Board mailed additional material to the Merit Board regarding the case. The Merit Board was asked to review the case and be prepared to act on this matter at this meeting.

Vice Chair Montgomery asked Ms. Daniels to give a summary of the case. Ms. Daniels summarized the case by stating that Ms. Marshall had begun her employment with Chicago State University in 2005 and had worked in the Police Department until 2010 when she was moved to the Housing and Residence Life Department as a Security Guard. Some of Ms. Marshall's new duties included checking the building for vandalism, conducting rounds through the building, and monitoring the back door. Ms. Marshall's evaluations prior to her move to the new department were a rating of "average".

Ms. Marshall was served with Written Charges for Discharge and the alleged grounds for discharge were the following:

1. willful refusal to perform job responsibilities;
2. sleeping while on duty on multiple occasions;
3. unresponsive to phone calls from department while on duty; and
4. continued failure to follow departmental policies and fulfill expectations.

A discharge hearing was held on December 21, 2011 at Chicago State University. Ms. Marshall testified to charge #1 above and she denied that she ever refused to sit by the back door of the residence hall. The Hearing Officer found that the university did not sustain its burden of proof to this charge. On charge #2 above, there were seven incidents of her sleeping on the job. The Hearing Officer found that two were sustained by the university and the other five were not. Regarding charge #3 above, Ms. Marshall testified that she had injured her knee at work and that a CSU police officer picked her up and took her to the Police Station. At the station, pictures of her knee were taken showing the swelling. Ms. Marshall testified that she received the call from Ms. Curling, but was at the mercy of the Police Officer and was not in control of the timeframe. The Hearing Officer found that the university did not sustain its burden of proof regarding charge #3. In response to charge #4, the Hearing Officer found that the university did sustain its burden with respect to establishing that Ms. Marshall's performance did not meet expectations for the January-July 2012 timeframe and that Chicago State University had made efforts to work with Ms. Marshall.

Ms. Daniels further stated that the Employee-Petitioner had timely filed an "Employee's Motion Requesting Oral Argument before the Merit Board". Mr. Friefeld moved to approve the Employee-Petitioner to present oral argument. Mr. Garcia seconded Mr. Friefeld's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

Chris Schneider, Attorney for Employee-Petitioner, presented oral arguments stating that Chicago State University had nine different charges against Ms. Marshall. The Hearing Officer found in favor of Ms. Marshall in over half of the charges and the ones that remain did not justify discharge. Mr. Schneider referred to the sleeping on the job incident and that Ms. Marshall acknowledged that incident and that she was disciplined for it by serving a one-day suspension. Mr. Schneider claimed double-jeopardy. Mr. Schneider further stated that Ms. Marshall had only three previous disciplinary actions and only one below average performance evaluation during her employment.

After a brief discussion, Vice Chair Montgomery asked for a motion regarding this matter. Ms. Hasara made a motion that Ms. Marshall be reinstated with a 60-day suspension from Chicago State University. Mr. Friefeld seconded Ms. Hasara's motion.

A roll call vote was taken and the motion was approved with the following vote:

Ms. Hasara.....	Aye
Judge Holmes	Aye
Mrs. Maitland	Absent
Dr. Manering	Absent
Mr. Marshall.....	Aye
Dr. Webb	No
Mr. Cole	Aye
Mr. Friefeld.....	Aye
Mr. Garcia.....	Aye

The following decision and order was therefore adopted.

STATE OF ILLINOIS



STATE UNIVERSITIES CIVIL SERVICE SYSTEM

AKILAH MARSHALL,)	BEFORE THE UNIVERSITY CIVIL
)	SERVICE MERIT BOARD
Employee-Petitioner,)	
)	DISCHARGE PROCEEDING
v.)	
)	No. CSU-11-6
CHICAGO STATE UNIVERSITY,)	
)	
Employer-Respondent.)	

DECISION AND ORDER OF THE UNIVERSITY CIVIL SERVICE MERIT BOARD

PROCEDURAL HISTORY

Discharge proceedings have been commenced by **CHICAGO STATE UNIVERSITY**, employer, against **AKILAH MARSHALL**, employee, by service of Written Charges for Discharge by certified mail on November 2, 2011 and the Employee-Petitioner, **AKILAH MARSHALL**, has filed a timely written request for Hearing. A Hearing has been duly convened, held, and concluded on December 21, 2011 in conformity with the procedures set forth in section 250.110(f) of the

Illinois Administrative Code (80 Ill. Adm. Code §250.110(f)). The complete Hearing Record has been certified and placed on file in this cause.

FINDINGS

The University Civil Service Merit Board has examined and reviewed the Hearing Record, as supplemented, which includes the following:

1. Written Charges for Discharge, dated November 2, 2011
2. Suspension Notice Pending Discharge, dated November 2, 2011
3. Employee-Petitioner's oral request for a hearing on November 17, 2011, followed by a written request on November 28, 2011
4. Notice of Appearance by Employee-Petitioner, dated November 30, 2011
5. Acknowledgement of Hearing request, dated December 1, 2011
6. Continuance request, dated December 1, 2011
7. Continuance acknowledgement to parties of record, dated December 5, 2011
8. Notice of Hearing to Hearing Officer Simon, dated December 9, 2011
9. Notice of Convening of Hearing to the parties of record, dated December 9, 2011
10. Transcript of Evidence and Exhibits
11. Request for Findings of Fact from Hearing Officer Simon, dated January 10, 2012
12. Findings of Fact, rendered by Hearing Officer Simon, dated January 22, 2012
13. Certification of Hearing Record, dated January 24, 2012
14. Letter to Merit Board members, dated January 30, 2012
15. Employee's Motion Requesting Oral Argument before the Merit Board, filed by Employee-Petitioner, dated February 2, 2012
16. Acknowledgement of Employee's Motion Requesting Oral Argument before the Merit Board, dated February 3, 2012
17. Letter to Merit Board members, dated February 3, 2012

Now being fully advised of the matters contained in the Hearing Record, as supplemented, and based solely on the matters contained in the Hearing Record, as supplemented, the University Civil Service Merit Board makes the following jurisdictional and factual findings and issues the following Decision and Order:

1. That this discharge proceeding has been commenced and conducted in compliance with section 250.110(f) of the Illinois Administrative Code (80 Ill. Adm. Code

§250.110(f)) and all applicable State and Federal Laws and that the University Civil Service Merit Board has jurisdiction of the parties and subject matter thereof.

2. That the Hearing Record, as supplemented, does not support and sustain one or more of the charges of the employer, **CHICAGO STATE UNIVERSITY**, against the employee, **AKILAH MARSHALL**, and/or the charges as proven by said employer fail to establish just cause for discharge.

DECISION AND ORDER

WHEREFORE, IT IS HEREBY ORDERED:

1. The Findings of Fact of the Hearing Officer, attached hereto, are approved and certified to the employer, **CHICAGO STATE UNIVERSITY**, to the extent not inconsistent with the findings made herein.
2. The employee, **AKILAH MARSHALL**, shall be reassigned to perform the duties in a position in her classification following the completion of a 60-day suspension without pay.

DATED AND ENTERED this 8th day of February, 2012.

UNIVERSITY CIVIL SERVICE MERIT BOARD

By: /s/ James Montgomery
University Civil Service Merit Board

ATTEST:

/s/ Teresa M. Rademacher
Teresa M. Rademacher
Secretary for the Merit Board



Update on proposed rule changes to sections 250.60, 250.70, 250.90, and 250.110 of the Illinois Administrative Code (Code) (80 Ill. Adm. Code §250.60, §250.70, §250.90, and §250.110)

Mr. Morelock updated the Merit Board regarding the above proposed changes to the Illinois Administrative Code. The proposed changes had been approved by the Merit Board several months ago to begin the First Notice Period. The proposed changes were published in the Illinois Register on October 28, 2011, Volume 25, Issue 44, Pages 17415-17457. Mr. Morelock gave an overview of each of the proposed changes:

- Section 250.60(h)(10) of the Code – proposed amendment included adding a new section 10 to provide for the permissive removal of names from certain registers, when a vacant position had been posted and the posting included a timeline for removal or discontinuation of the register for that specific vacancy.
- Section 250.70(d) of the Code – proposed amendment was to change the name of the Trainee Program to Intern Program. This change was suggested by the State-wide Diversity Affinity Committee which had met on September 28, 2011. This is only a name change.
- Section 250.90(b)(2) of the Code – proposed change was to extend the probationary period for a comparable amount of time for any required off-site training period, as approved by the Executive Director of the University System Office. Various campus policing units had suggested this change due to the significant amount of time required for off-site mandatory police training for entry level officers. This will allow for additional on-site evaluation time for these important security positions.
- Section 250.110(f)(16) and (17) of the Code – amended to eliminate the language regarding a rehearing and reconsideration of the final Merit Board order or decision in discharge/demotion cases. This will formally provide for appeal of the final Merit Board decision in discharge/demotion cases only through the provisions in the Administrative Review Act. At the May 2011 Merit Board meeting, the board indicated a desire not to ever reconsider any past final Merit Board discharge/demotion decisions and to defer any such appeals in accordance with the Administrative Review Act.

Mr. Morelock reported that in early January 2012, the University System Office staff had received comments from JCAR regarding these proposed changes. The first comment involved section 250.60(h)(10) of the Illinois Administrative Code (Code) (80 Ill. Adm. Code §250.60(h)(10)) and suggested some other language to be more consistent with section 5-20 of the IAPA and requested that the University System Office include a list of non-exhaustive

circumstances, examples or standards of situations in which the Executive Director should make a determination that would allow for the permissive removal of names from registers. Based on this suggestion, a modification was made to this section, which was presented at the meeting. The second question referenced the proposed language concerning a request for a rehearing or reconsideration in section 250.110(f)(17) of the Code (80 Ill. Adm. Code §250.110(f)(17)). The University System Office staff responded to JCAR on both issues and JCAR has since indicated agreement with the response. Also, Mr. Morelock reported that the University System Office had received only one comment on this proposed rulemaking from the University of Illinois, indicating their support for most of the rule change proposals.

After discussion, a motion was made by Mr. Cole to approve the proposed rule revisions for the Second Notice Period, as amended and as presented at the Merit Board meeting. Judge Holmes seconded the motion and the motion carried. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

Update on proposed rule changes to section 250.30 of the Illinois Administrative Code (80 Ill. Adm. §250.30)

Mr. Morelock gave an overview of what had transpired over the last year regarding this proposed rule change. The Merit Board had authorized the University System Office to submit section 250.30 of the Code (80 Ill. Adm. Code §250.30) for publication in the Illinois Register on November 17, 2010 to begin the First Notice Period. Mr. Morelock further stated that this has not been submitted, but will be within the next few days. He stated that during the JCAR process, parties will be able to submit comments on the proposed rulemaking. JCAR will also have to review the proposed rule change. Mr. Morelock informed that Merit Board that the Merit Board will have the final say or action regarding this rulemaking at a later date.

Discussion of the Participation Agreement for the Statewide Salary Data Processing System

Mr. Morelock provided the Merit Board with information regarding the current Statewide Salary Data Processing System which is currently in place and is being used by all universities and agencies under the University System. This electronic system is currently managed by Northern Illinois University and it is used to quickly review and manage employer pay rates and ranges as required through the University System Office. Also, twice a year all universities and agencies participate in a salary survey for all civil service positions and classifications. These surveys are published on the University System secure website for the universities and agencies to use. In 2002 Northern Illinois University (NIU) developed this electronic system, in conjunction with the University System Office, to collect the salary information electronically. Prior to 2002, the material was submitted to the University System Office by hard paper copy. NIU currently administers this system and charges the universities and agencies an

administrative fee of approximately \$20,000. Over the years, the universities and agencies have requested several updates to this system. With these suggestions, the University System IT staff has recently completed the development of a new Statewide Salary Data Processing System which will allow for the University System Office to maintain this function in-house with all of the new enhancements requested by the universities. The University System plans to put this system in place at the beginning of FY 2013. Mr. Morelock further discussed that the administrative fee that is currently being collected by NIU is again a savings for the universities and agencies, but that the University System does not see any of these savings in their agency 's budget.

Compromise of the pre-employment exams for the Agricultural Research Technician Series

Mr. Morelock updated the Merit Board on the recent compromise of the Associate Agricultural Research Technician exam at the University of Illinois at Urbana-Champaign. The University System Office had received information from the campus HR Office that the test had been compromised. After investigation by the University System Office staff, it was determined that the exam had been compromised. The Office of the Executive Inspector General was notified of this violation. The current registers and exam were discontinued for use at all places of employment. The exam will need to be rewritten as soon as possible by the University System Office staff.

Expiration and Transition of Board-Approved Pilot Program

Mr. Morelock updated the Merit Board on the Pilot Program, applicable to specific classifications and creating a more flexible employment process. The Pilot Program has been in existence since 2002 and incorporated many new, innovative employment protocols for the universities and agencies to utilize. The University System has adopted most of the employment processes associated with this program and has transitioned these protocols into the current Classification Plan. This program will be fully transitioned upon final adoption of the recent rule changes. Included in the Agenda Material was a final summary report that included statistics on the number of incumbents and positions that had been filled through this Pilot Program.

Update on audit issues at the University of Illinois at Chicago

Mr. Morelock updated the Merit Board on the recent reports the agency had received from the University of Illinois at Chicago (UIC) regarding the various audit issues. The Job Analysis Report

for vacant academic professional positions indicated the following new academic professional positions that were approved by UIC for the following months:

- October 2011 – 15 positions
- November 2011 – 18 positions
- December 2011 – 18 positions

The Monthly Conversions of Academic Professional Positions to Civil Service Positions Report indicated the following;

- October 2011 – 11 positions were converted to Civil Service
- November 2011 – 64 positions were converted to Civil Service
- December 2011 – 25 positions were converted to Civil Service

A comment was made that the University of Illinois at Chicago has created a new job analysis process and is making progress on correcting this problem.

Biennial Audit Program – Review of Recent Activities

Mr. Morelock updated the Merit Board on the Final Audit Reports that had been completed since the last Merit Board meeting. Mr. Morelock further stated that out of the final four reports presented at this meeting, three of the reports did not have any findings. Following are the audits that had been completed:

- *Illinois Board of Higher Education*
- *Illinois Community College Board*
- *Division of Specialized Care for Children*
- *University of Illinois at Springfield*

Report of the Executive Director

Executive Director Morelock provided an agency report which included the following items:

- Agency's budget:
 - FY 2011 – yearly expenditures were included in the agenda materials; lapse period ended December 31, 2011; approximately \$1,100 in interest charges was paid by the agency to various vendors;
 - FY 2012 – yearly expenditures were included in the agenda materials; agency may possibly need to transfer funds across various line items to

- cover expenses; agency is closely monitoring expenses; major cut was in the Contractual Services Line Item;
- FY 2013 – on January 25, 2012, IBHE issued a discussion budget; comments were prepared and sent to IBHE regarding the budget; IBHE took action on February 7, 2012; discussed with staff the possibility of increasing budget by \$96,000 or a 8.4% increase over the FY 2012 appropriation.
- updated the Merit Board on the new public website to be released within the next few days; new web address is “www.sucss.illinois.gov”;
- provided the Merit Board with a list of recent classification/examination changes; and
- informed the Merit Board of interagency activities and a list of University/Agency visits included in agenda materials.

Report of the State Universities Civil Service Advisory Committee – Julie Benedict, Chair

The Merit Board heard a report from Julie Benedict, new Chair of the State Universities Civil Service Advisory Committee. The Committee last met on January 12 and 13, 2012 at the University System Office. President Hogan from the University of Illinois welcomed the committee and addressed the importance of establishing relationships. The officers for 2012 were elected. Ms. Benedict was elected Chair, Gary Fry was elected Vice-Chair, and Kim Kirchner was elected Secretary. Ms. Benedict stated that several committee members had retired recently, so the committee has several new members. The committee also discussed and is in agreement with the proposed rule changes that were approved for the Second Notice Period at this meeting. The Committee remains passionate about the proposed change to section 250.30 regarding exempt positions. The committee feels that there should be some sort of check and balance with the universities regarding exempt positions. Ms. Benedict further stated that the exemption problem is not just a University of Illinois issue. The committee would like to see all positions properly classified, whether they are civil service or an exempt position. At the next committee meeting scheduled for April, the committee will be discussing what the committee can do to strengthen the support of the Human Resource Directors/Offices and the university. The committee will also be closely following the latest pension issues.

Report of the Human Resource Directors Advisory Committee – Maureen Parks

The Merit Board heard a report from Maureen Parks, representative of the Human Resource Directors Advisory Committee. Ms. Parks stated that the four rule changes, as presented at this meeting earlier, are examples of the positive teamwork between the University System Office and the Human Resource Directors. The goal of the committee is for the positive momentum to keep moving forward with best practices. Ms. Parks stated that she disagrees with Ms. Benedict's comments today regarding the exemption authority process. The Human Resource Directors are still concerned with two issues. The first being the exemption authority and the proposed rule change to section 250.30 of the Code. The second issue being the concern and expiration of the Pilot Program. The expiration of this program could cause some possible problems. The Human Resource Directors do not want to lose the flexibility of the recruiting process and the large applicant pools that this program provides. The Human Resource Directors will continue to work with the University System Office to resolve some of the issues and concerns. Ms. Parks stated that hopefully a new demonstration project will be presented to the Merit Board at the May meeting regarding the "Rule of 3".

Report of the Administrative Advisory Committee – Tom Morelock

Mr. Morelock reported that the committee last met on February 1, 2012. Many of the topics that were discussed at advisory meeting were also discussed in previous agenda items. There were no objections by this committee regarding any of the proposed rule changes. The committee also discussed the Statewide Salary Data Processing System.

Report of Legal Counsel – Abby K. Daniels, Manager, Legal Services and Legal Counsel

Ms. Daniels updated the Merit Board on some outstanding legal matters. During FY 2012 there have been 28 Written Charges for Discharge served on employees at the various universities and agencies. Six employees have requested a hearing. Following is a summary of the outcome of the cases:

- 1 Resigned before Hearing -- (Sperry/UICMR)**
- 2 Settlement Agreement during hearing – (Roper/SIUC, Overstreet-Udeen/CSU)**
- 1 Reinstated with 60-day Suspension – (Marshall/CSU)**
- 1 Pending – (Kirkham/WIU)**

Ms. Daniels updated the Merit Board on the two pending Administrative Review Cases, Michael Rettig and Anthony Kafka.

- **Rettig Administrative Review Case** – the Rettig case is in an appeal stage and at this time no hearing date has been set and could be months away.
- **Kafka Administrative Review Case** – this case was heard on November 21, 2011 in DeKalb County before Judge Klein; on December 19, 2011, Judge Klein upheld the Order of the Merit Board that discharged Officer Kafka from Northern Illinois University.

Ms. Daniels reminded the Merit Board of the requirement to complete the online Open Meetings Act training.

Also, Mr. Morelock gave an overview of what transpired in the Rettig discharge case at Northern Illinois University.

Other Items as Presented

The next meeting of the Merit Board will be on Wednesday, May 16, 2012 at the University System Office, with videoconference locations in the Chicago and Carbondale area. Mr. Cole made a motion to adjourn the meeting. Judge Holmes seconded Mr. Cole's motion. A voice vote was taken and approved. The meeting adjourned at 11:25 a.m.

Respectfully submitted,

/s/ Teresa M. Rademacher

Teresa M. Rademacher
Secretary for the Merit Board

APPROVED:

/s/ Joanne Maitland

Chair, University Civil Service Merit Board

May 16, 2012

Date